



Arizona Department of Agriculture

Office of Pest Management

1688 W. Adams Street, Phoenix, Arizona 85007
(602) 255-3664 FAX (602) 542-0466

May 14, 2013

Case #100393

Green Mango Pest Control L.L.C. (Licensed Business)

The OPM opened a complaint against Green Mango Pest Control (Green Mango) for performing the work of pest management without a qualifying party and for improper chemical storage.

On 6-29-12, Logan Benson, Qualifying Party for Green Mango, submitted a letter to disassociate from Green Mango. In his letter, Mr. Benson stated that the company was using unlicensed applicators beyond 90 days of employment as well as service vehicles void of pesticide safety equipment.

On 7-12-12, Green Mango secured a new qualifying party. OPM Inspector William Hanko visited Green Mango owners Dustin Williams and Cameron Bawden to discuss the allegations.

During the investigation of this case, Inspector Hanko noted that Green Mango applicators performed 471 treatments between 6-30-12 and 7-11-12 without the benefit of a qualifying party. It is unlawful for a company to perform pest control services without holding a business license *and* having a qualifying party.

On 8-29-12, Inspector Hanko randomly noted a Green Mango service vehicle with a pesticide storage compartment in a neighborhood. Inspector Hanko noted that the pesticide storage compartment on the service vehicle could not be locked, as it had a broken hinge. The applicator, who was unlicensed and still within the 90-day grace period to operate without a license, was in the backyard of a consumer's home. He was out of the sight of the storage compartment. Additionally, the storage area was not posted with a sign that warned individuals that pesticides were stored inside. When Inspector Hanko questioned him about the pesticide storage compartment, the applicator responded by stating Mr. Williams had been aware that the storage box had been broken for "weeks." Because the storage area could not be secured when the applicator was out of view of the pesticides, Inspector Hanko asked him to return to Green Mango so that the compartment could be fixed to eliminate the storage violation.

While the evidence substantiates Green Mango working without a qualifying party, Inspector Hanko found no evidence of applicators working beyond the 90 days of their first pesticide application.

As a result of the OPM's investigation the Acting Director of the Office has determined that you have committed the following violation(s):

I. VIOLATIONS

1. Green Mango performed pest management services without a licensed qualifying party.

A.R.S. § 32-2325(2) ("A person shall not: ... Engage in the business of pest management in any category without a qualifying party licensed in that category.")

A.R.S. § 32-2301(4) ("Business of structural pest control" means engaging in ... or performing structural pest control"); A.R.S. § 32-2301(21) ("Pest management" means the management of public health pests, aquatic pests, household pests, wood-destroying insects, fungi or other pests, including weeds, that exist near or around structures, in ornamental shrubs and trees, on golf courses, along rights-of-way or in lawns or cemeteries").

A.A.C. R4-29-201(C) ("A licensed business shall provide pest management services only if the licensed business employs at least one individual who holds a qualifying party license. A licensed business shall provide pest management services in a category only if the licensed business employs an individual who has an activated qualifying party or temporary qualifying party license in the category.")

2. Green Mango failed to provide a pesticide storage area that complied with state laws.

A.A.C. R4-29-606 (A) ("A business licensee shall provide a pesticide and device storage area that complies with all federal, state, and local laws. The storage area may include an area on a service vehicle.")

A.A.C. R4-29-606(B) ("A business licensee shall secure the storage area required under subsection (A) from unauthorized entry by equipping its entrance or access with a lock.")

A.A.C. R4-29-606(E) ("A business licensee shall provide the following in or immediately adjacent to the storage area required under subsection (A), including a storage area on a service vehicle: ... Specimen label and MSDS for each pesticide stored in the area")

II. ORDER

It is ORDERED that **Green Mango, BUS LIC #8906**, be issued an **Administrative Warning**.

This Citation and Order shall automatically take effect thirty one days after receipt if you have not properly exercised your right to request an opportunity for a formal hearing. See A.R.S. §§ 32-2321 & 41-1092.03(B). Your right to a request an opportunity for a formal hearing is set out below. If you do not request an opportunity for a hearing by contesting this Citation and Order, this Citation and Order will serve as the Final Decision and Order of the Acting Director without any additional notification being sent to you.

Right to a Hearing

Pursuant to Title 41, Chapter 6, Article 10, A.R.S. § 41-1092 et seq., you have the right to request a hearing to contest any of the above charges and/or associated penalties. Your hearing request must be filed within 30 days of receipt of this citation. Please note that if you request a formal hearing, the Office of Pest Management will schedule the hearing before the Office of Administrative Hearings and the hearing will be presided over by an administrative law judge. After you request a hearing, the Office of Pest Management will serve a Notice of Hearing on you, and you will have 20 days to file a written answer. A.A.C. R4-29-705(C). If you request a hearing, you also have the right to request an informal settlement conference pursuant to A.R.S. § 41-1092.06.

41-1092.03. Notice of appealable agency action or contested case; hearing; informal settlement conference; applicability

A. Except as provided in subsection D of this section, an agency shall serve notice of an appealable agency action or contested case pursuant to section 41-1092.04. The notice shall:

1. Identify the statute or rule that is alleged to have been violated or on which the action is based.
2. Identify with reasonable particularity the nature of any alleged violation, including, if applicable, the conduct or activity constituting the violation.
3. Include a description of the party's right to request a hearing on the appealable agency action or contested case.
4. Include a description of the party's right to request an informal settlement conference pursuant to section 41-1092.06.

B. A party may obtain a hearing on an appealable agency action or contested case by filing a notice of appeal or request for a hearing with the agency within thirty days after receiving the notice prescribed in subsection A of this section. The notice of appeal or request for a hearing may be filed by a party whose legal rights, duties or privileges were determined by the appealable agency action or contested case. A notice of appeal or request for a hearing also may be filed by a party who will be adversely affected by the appealable agency action or contested case and who exercised any right provided by law to comment on the action being appealed or contested, provided that the grounds for the notice of appeal or request for a hearing are limited to issues raised in that party's comments. **The notice of appeal or request for a hearing shall identify the party, the party's address, the agency and the action being appealed or contested and shall contain a concise statement of the reasons for the appeal or request for a hearing.** The agency shall notify the office of the appeal or request for a hearing and the office shall schedule an appeal or contested case hearing pursuant to section 41-1092.05, except as provided in section 41-1092.01, subsection F.

C. If good cause is shown an agency head may accept an appeal or request for a hearing that is not filed in a timely manner.

D. This section does not apply to a contested case if the agency:

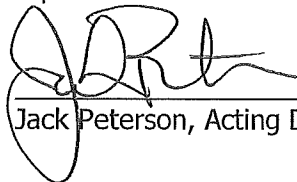
1. Initiates the contested case hearing pursuant to law other than this chapter and not in response to a request by another party.

2. Is not required by law, other than this chapter, to provide an opportunity for an administrative hearing before taking action that determines the legal rights, duties or privileges of an applicant for a license.

41-1092.06. Appeals of agency actions; informal settlement conferences; applicability

A. If requested by the appellant of an appealable agency action or the respondent in a contested case, the agency shall hold an informal settlement conference within fifteen days after receiving the request. A request for an informal settlement conference shall be in writing and shall be filed with the agency no later than twenty days before the hearing. If an informal settlement conference is requested, the agency shall notify the office of the request and the outcome of the conference, except as provided in section 41-1092.01, subsection F. The request for an informal settlement conference does not toll the sixty day period in which the administrative hearing is to be held pursuant to section 41-1092.05.

B. If an informal settlement conference is held, a person with the authority to act on behalf of the agency must represent the agency at the conference. The agency representative shall notify the appellant in writing that statements, either written or oral, made by the appellant at the conference, including a written document, created or expressed solely for the purpose of settlement negotiations are inadmissible in any subsequent administrative hearing. The parties participating in the settlement conference shall waive their right to object to the participation of the agency representative in the final administrative decision.



Jack Peterson, Acting Director

5/9/13

Date

To file a request for hearing with the Office of Pest Management, you must file a letter requesting a hearing, within thirty (30) days after receipt of this notice addressed to:

Jack Peterson, Acting Director
Arizona Office of Pest Management
1688 W. Adams
Phoenix, AZ 85007

OR to request by FAX:

Attention: Jack Peterson, Acting Director
FAX (602) 542-0466

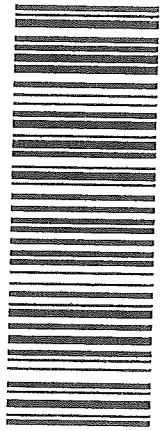
The Request for Hearing must include the following:

- The contesting party
- The party's address
- The specific action being contested
- A concise statement of the reasons for the request for a hearing

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Phoenix, Arizona 85007-2617



7012 2210 0000 5044 1603

Green Mango Pest Control, LLC
700 N. Golden Key Street Suite A-6
Gilbert, AZ 85233

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